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MONTANA PROSECUTOR

April, 1977 1230 Eleventh Avenue, Helena, Montana 59601 Volume 1, No. 4

MONTANA COUNTY ATTORNEYS ASSOCIATION

1230 ELEVENTH AVENUE
HELENA, MONTANA 59601

COORDINATOR
449-3800

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April 4, 1977

TO: ALL MONTANA COUNTY ATTORNEYS

FROM: A. EVON ANDERSON, Pres.
Montana County Attorney's Association

SUBJECT: Annual Dues
Lewistown Meeting

As you will recall, the December meeting in Helena resulted in a change of the dues for the year beginning immediately. The motion was that dues be assessed on the basis of one-third of the dues paid by the County Commissioners for each of the respective counties, i.e., if you commissioners pay $1500 in dues to the Commissioners Assn., your dues for the County Attorney's Assn. would be assessed at $500. The dues are now payable and you should be receiving a claim from the secretary, Dick Heinz, in the near future.

A post legislative meeting of the Association will be held in Lewistown, at the Yogo Inn, on April 29 & 30, 1977. We will plan on starting the meeting at about 11:00 A.M. on Friday and should finish by 12:00 noon on Saturday. Primary purpose will be to review the legislation passed by the 1977 Legislature as it effects our offices. We will also discuss the Annual convention to be held at Fairmont on July 13 thru 16, 1977.

I will take a little of the Lewistown time to report on the Mid-winter conference of the NDAA held in San Diego March 12 thru 17, 1977, and will make some recommendations regarding our representation at future Board meetings and conferences of that Association.

Needless to say, the Lewistown meeting and the annual meeting can only be successful if the attendance by the members of the Association is high. We are in a position to exert some influence with respect to various state agencies, bureaus and councils and your input is essential.

PLEASE PLAN TO ATTEND BOTH OF THESE MEETINGS!!!!

Very truly yours,

A. Evon Anderson

A. EVON ANDERSON

AEA:pt

County	FY 1976 Dues	Taxable Valuation 1976 - 1977	Total Dues ($5,000 max.) 1/10 Mill + $150	Total Dues ($5,000 max.) .074 Mill + $150
Beaverhead	$ 918	$ 16,097,539	$ 1,760	$ 1,341
Big Horn	916	40,619,382	4,212	3,156
Blaine	746	17,371,997	1,887	1,436
Broadwater	423	7,006,491	851	668
Carbon	960	19,864,110	2,136	1,620
Carter	482	7,392,769	889	697
Cascade	4,378	87,547,341	5,000	5,000
Chouteau	1,285	24,058,934	2,556	1,930
Custer	949	16,998,960	1,850	1,408
Daniels	446	7,037,536	854	671
Dawson	1,007	19,796,159	2,130	1,615
Deer Lodge	1,070	21,587,556	2,309	1,747
Fallon	1,186	34,112,338	3,561	2,674
Fergus	1,237	22,682,686	2,418	1,829
Flathead	2,713	57,181,770	5,000	4,381
Gallatin	2,016	44,251,158	4,575	3,425
Garfield	462	6,933,520	843	663
Glacier	1,215	27,776,508	2,928	2,205
Golden Valley	330	3,652,315	515	420
Granite	432	6,048,334	755	598
Hill	1,244	26,312,448	2,781	2,097
Jefferson	551	9,082,450	1,058	822
Judith Basin	615	9,260,720	1,076	835
Lake	1,191	23,647,043	2,515	1,900
Lewis and Clark	2,147	46,507,479	4,801	3,592
Liberty	513	9,564,669	1,106	858
Lincoln	1,084	20,237,190	2,174	1,648
Madison	721	15,304,195	1,680	1,283
McCone	541	8,748,213	1,025	797
Meagher	417	5,580,126	708	563
Mineral	343	3,940,189	544	442
Missoula	3,432	75,727,254	5,000	5,000
Musselshell	596	17,909,852	1,941	1,475
Park	898	17,362,929	1,886	1,435
Petroleum	281	2,916,212	442	366
Phillips	735	12,902,855	1,440	1,105
Pondera	969	17,726,920	1,923	1,462
Powder River	1,052	74,141,723	5,000	5,000
Powell	586	9,067,746	1,057	821
Prairie	410	5,556,357	706	561
Ravalli	974	19,835,720	2,134	1,618
Richland	1,170	28,909,654	3,041	2,289
Roosevelt	967	18,926,934	2,043	1,551
Rosebud	1,131	42,957,995	4,446	3,329
Sanders	891	17,945,975	1,945	1,478
Sheridan	749	19,216,553	2,072	1,572
Silver Bow	2,670	63,924,954	5,000	4,880
Stillwater	630	11,633,486	1,313	1,013
Sweet Grass	503	7,345,026	885	694
Teton	872	17,097,093	1,860	1,415
Toole	1,011	23,999,788	2,550	1,926
Treasure	302	3,591,578	509	416
Valley	1,072	19,850,877	2,135	1,619
Wheatland	410	5,285,885	679	541
Wibaux	546	11,455,419	1,296	998
Yellowstone	5,000	142,008,888	5,000	5,000
	$60,395	$1,353,498,135	$122,800	$99,885

ATTENTION PLEASE

Just a Reminder! Extradition forms may be obtained by writing to the Coordinator's office at 1230 Eleventh Avenue in Helena. The cost of the forms is $2 per set.

* * *

The members present at the Helena meeting of the MCAA have voted to raise the Association dues so that they are comparable with the dues paid by your Commissioners. A schedule of the Commissioners' dues is reprinted on page 2, and the figure that you should budget in for the coming year will be one-third of the right-hand total dues column. For further information contact Evon Anderson or the Coordinator's office.

* * *

It has come to my attention that while most County Attorneys receive copies of the Attorney General's opinions, there are some who do not have an index to these opinions. I have, therefore, attached an index to the Attorney General's official opinions.

Legislative Report

Senate

SB 149 Death Penalty Revision, passed Senate and House, now in enrolling.

SB 192 Pay Bill, passed Senate, amended in House Local Government Committee, up for second reading in House--no action as of this writing. (A copy of SB 192 and its amendments follows this legislative report.)

SB 254 Treating Welfare Fraud as Theft, passed Senate and House, now in Senate enrolling.

SB 335 Endangering the Welfare of Children, passed Senate and House, sent to Governor.

SB 339 Failure to make Timely Complaint is not a Defense to Sexual Intercourse without Consent, passed Senate and House, signed by Governor, 3/25/77.

Senate

SB 413 Towe's Mental Commitment Bill, passed Senate, was amended by House Judiciary Committee (County Attorney amendments were not accepted), passed committee as amended, up for second reading in House--no action as of this writing.

House

HB 79 To permit District Judges to Sentence persons Convicted of Felonies to Imprisonment with No Possibility of Parole or Participation in Work Furlough, passed House, Senate Judiciary Committee has heard the bill--no action as of this writing.

HB 116 Extending the "Reporter's Privilege," passed House and Senate, sent to Governor.

HB 122 Local Government Revision, passed House, sent to Senate Rules Committee.

HB 142 Appropriations Bill for MONTCLIRC, House Appropriations Committee gave a do not pass recommendation--an attempt will be made to restore the bill on the floor of the House.

HB 184 Cost of Medical Exam in Rape Case, passed House and Senate, sent to Governor.

HB 357 Victim Compensation Bill, sent to Appropriations--no action as of this writing.

HB 411 Fitness to Stand Trial (developmentally disabled persons), passed House, in Senate Engrossing.

HB 461 To create a Division of Forensic Science, sent to Appropriations Committee--no action as of this writing.

County Attorney Bills

HB 251 Amending DWI Provisions, passed House, Senate Judiciary--no action as of this writing.

HB 280 Amending the Charge, passed House, Senate Judiciary--no action as of this writing.

HB 291 Obscuring the Identity of a Weapon, passed House and Senate, signed by Governor 3/18/77

HB 363 To allow use of Video Tape in Case of Sexual Assault without Consent, passed House, amended in Senate and passed as amended, in House for second reading--no action as of this writing.

County Attorney Bills

HB 498 County Attorney Subpeona Bill, passed House, sent to Senate Judiciary--no action as of this writing.

HB 513 Concealed Weapons Bill, passed House, amended in second reading on Senate floor, passed as amended.

SENATE BILL No. 192

INTRODUCED BY McCALLUM, MURPHY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 25-605, R.C.M. 1947, TO INCREASE THE SALARIES OF CERTAIN COUNTY OFFICERS AND TO INCLUDE COUNTY ASSESSOR IN SALARY SCHEDULE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 25-605, R.C.M. 1947, is amended to read as follows:

"25-605. Salaries of certain county officers. The salaries of county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county assessors, county superintendents of schools, and of county surveyors in counties where county surveyors now receive salaries as provided in section 16-3302, shall be based on the population and taxable valuation of the county in accordance with the following schedule:

Population of County below 3,000	Salary Col. A ~~$4,385~~ $4,982	Salary Col. B ~~$4,289~~ $4,289
3,000 to 3,999	~~$4,389~~ $5,150	~~$4,514~~ $4,514
4,000 to 4,999	~~$4,444~~ $5,273	~~$4,614~~ $4,614
5,000 to 5,999	~~$4,469~~ $5,384	~~$4,711~~ $4,711
6,000 to 6,999	~~$4,494~~ $5,518	~~$4,824~~ $4,824
7,000 to 7,999	~~$4,984~~ $5,885	~~$5,149~~ $5,149
8,000 to 8,999	~~$4,989~~ $5,980	~~$5,237~~ $5,237
9,000 to 9,999	~~$5,106~~ $6,122	~~$5,361~~ $5,361
10,000 to 12,499	~~$5,189~~ $6,222	~~$5,448~~ $5,448
12,500 to 14,999	~~$5,296~~ $6,355	~~$5,561~~ $5,561
15,000 to 17,499	~~$5,403~~ $6,484	~~$5,674~~ $5,674
17,500 to 19,999	~~$5,498~~ $6,598	~~$5,773~~ $5,773
20,000 to 24,999	~~$5,605~~ $6,726	~~$5,885~~ $5,885
25,000 to 29,999	~~$5,700~~ $6,840	~~$5,985~~ $5,985
30,000 to 39,999	~~$5,806~~ $6,967	~~$6,095~~ $6,095
40,000 to 49,999	~~$5,949~~ $7,139	~~$6,246~~ $6,246
50,000 to 59,999	~~$6,163~~ $7,396	~~$6,471~~ $6,471
60,000 to 69,999	~~$6,376~~ $7,651	~~$6,695~~ $6,695
70,000 to 79,999	~~$6,614~~ $7,937	~~$6,945~~ $6,945
80,000 to 89,999	~~$6,756~~ $8,107	~~$7,094~~ $7,094
90,000 to 99,999	~~$6,978~~ $8,374	~~$7,319~~ $7,319
100,000 and over	~~$7,184~~ $8,621	~~$7,541~~ $7,541
Taxable Valuation of County		Salary Col. B
Below 2,000,000	~~$4,180~~ $5,016	~~$4,389~~ $4,389
2,000,000 to 2,999,999	~~$4,269~~ $5,159	~~$4,514~~ $4,514
3,000,000 to 3,999,999	~~$4,394~~ $5,273	~~$4,614~~ $4,614
4,000,000 to 4,999,999	~~$4,489~~ $5,387	~~$4,713~~ $4,713
5,000,000 to 5,999,999	~~$4,508~~ $5,538	~~$4,839~~ $4,839

THIRD READING

6,000,000 to 6,999,999	~~$4,984~~	~~$5,885~~	$5,142
7,000,000 to 7,999,999	~~$4,988~~	~~$5,906~~	$5,237
8,000,000 to 9,999,999	~~$5,186~~	~~$6,237~~	$5,361
10,000,000 to 11,999,999	~~$5,189~~	~~$6,222~~	$5,448
12,000,000 to 13,999,999	~~$5,390~~	~~$6,355~~	$5,561
14,000,000 to 15,999,999	~~$5,482~~	~~$6,482~~	$5,672
16,000,000 to 17,999,999	~~$5,497~~	~~$6,576~~	$5,772
18,000,000 to 19,999,999	~~$5,665~~	~~$6,725~~	$5,885
20,000,000 to 22,499,999	~~$5,708~~	~~$6,848~~	$5,985
22,500,000 to 24,999,999	~~$5,886~~	~~$6,962~~	$6,096
25,000,000 to 29,999,999	~~$5,949~~	~~$7,139~~	$6,246
30,000,000 to 34,999,999	~~$6,163~~	~~$7,326~~	$6,411
35,000,000 to 39,999,999	~~$6,374~~	~~$7,651~~	$6,695
40,000,000 to 44,999,999	~~$6,614~~	~~$7,937~~	$6,945
45,000,000 to 49,999,999	~~$6,755~~	~~$8,107~~	$7,094
50,000,000 to 54,999,999	~~$6,978~~	~~$8,364~~	$7,319
55,000,000 to 59,999,999	~~$7,184~~	~~$8,621~~	$7,543
60,000,000 to 64,999,999	~~$7,399~~	~~$8,878~~	$7,768
65,000,000 to 69,999,999	~~$7,611~~	~~$9,133~~	$7,992
70,000,000 to 74,999,999	~~$7,826~~	~~$9,390~~	$8,216
75,000,000 to 79,999,999	~~$8,039~~	~~$9,647~~	$8,441
80,000,000 to 84,999,999	~~$8,253~~	~~$9,904~~	$8,665
85,000,000 to 89,999,999	~~$8,466~~	~~$10,159~~	$8,889
90,000,000 to 94,999,999	~~$8,680~~	~~$10,416~~	$9,114
95,000,000 to 99,999,999	~~$8,894~~	~~$10,673~~	$9,339

100,000,000 and over to 109,999,999	~~$9,106~~	~~$10,929~~	$9,564
110,000,000 to 119,999,999	~~$9,320~~	~~$11,185~~	$9,788
120,000,000 to 129,999,999	~~$9,532~~	~~$11,442~~	$10,013
130,000,000 to 139,999,999	~~$9,747~~	~~$11,699~~	$10,237
140,000,000 to 149,999,999	~~$9,961~~	~~$11,956~~	$10,462
150,000,000 and over	~~$10,175~~	~~$12,212~~	$10,686

The total salary paid to county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county assessors, county superintendents of schools and county sheriffs, and county surveyors in counties where county surveyors receive salaries, as provided in ~~section~~ 16-4302, shall be the sum of the salary shown in column A based on population when added to the salary shown in column B based on taxable valuation; provided, however, that county superintendent of schools shall receive, in addition to the salary based upon the totals of columns A and B above, the sum of ~~four hundred dollars ($400)~~ per year and county sheriffs and county attorneys shall receive, in addition to the salary based upon the totals of columns A and B above, the sum of ~~one thousand two hundred dollars ($1,200)~~ per year. Notwithstanding the above, in each county with a population in excess of ~~thirty thousand ($30,000)~~ the salary of the county attorney shall be ~~twenty-five thousand dollars ($25,000)~~ $30,000 per year."

SECTION 2. ONE-HALF OF THE TOTAL SALARY INCREASES

PROVIDED FOR IN SECTION 1 SHALL BE EFFECTIVE JULY 1, 1977, AND THE REMAINDER OF SUCH INCREASES SHALL BE EFFECTIVE JULY 1, 1978.

-End-

HOUSE OF REPRESENTATIVES

March 26, 1977

HOUSE COMMITTEE ON LOCAL GOVERNMENT AMENDMENTS TO SENATE BILL 192.

1. Amend title, lines 4 and 5.
Following: "AMEND"
Strike: "SECTION"
Insert: "SECTIONS"
Following: "25-605"
Insert: "AND 16-912"

2. Amend title, line 5.
Following: "THE"
Insert: "MINIMUM"

3. Amend page 1, section 1, line 13.
Following: line 12
Insert: "minimum"

4. Amend page 1, section 1.

line 22	Strike:	$4,289	Insert:	$4,494
line 23	Strike:	$4,514	Insert:	$4,729
line 24	Strike:	$4,614	Insert:	$4,833
line 25	Strike:	$4,713	Insert:	$4,938

5. Amend page 2, section 1.

line 1	Strike:	$4,828	Insert:	$5,058
line 2	Strike:	$5,149	Insert:	$5,394
line 3	Strike:	$5,237	Insert:	$5,487
line 4	Strike:	$5,361	Insert:	$5,617
line 5	Strike:	$5,448	Insert:	$5,708
line 6	Strike:	$5,561	Insert:	$5,826
line 7	Strike:	$5,673	Insert:	$5,943
line 8	Strike:	$5,773	Insert:	$6,048
line 9	Strike:	$5,885	Insert:	$6,165
line 10	Strike:	$5,985	Insert:	$6,270
line 11	Strike:	$6,096	Insert:	$6,387
line 12	Strike:	$6,246	Insert:	$6,544
line 13	Strike:	$6,471	Insert:	$6,779
line 14	Strike:	$6,695	Insert:	$7,014
line 15	Strike:	$6,945	Insert:	$7,275
line 16	Strike:	$7,094	Insert:	$7,432
line 17	Strike:	$7,319	Insert:	$7,676
line 18	Strike:	$7,543	Insert:	$7,902
line 21	Strike:	$4,389	Insert:	$4,598
line 22	Strike:	$4,514	Insert:	$4,729
line 23	Strike:	$4,614	Insert:	$4,833
line 24	Strike:	$4,713	Insert:	$4,938
line 25	Strike:	$4,838	Insert:	$5,069

HOUSE COMMITTEE ON LOCAL GOVERNMENT AMENDMENTS TO SENATE BILL 192

6. Amend page 3, section 1.

line 1	Strike:	$5,149	Insert:	$5,394
line 2	Strike:	$5,237	Insert:	$5,487
line 3	Strike:	$5,361	Insert:	$5,617
line 4	Strike:	$5,448	Insert:	$5,708
line 5	Strike:	$5,561	Insert:	$5,826
line 6	Strike:	$5,672	Insert:	$5,942
line 7	Strike:	$5,772	Insert:	$6,047
line 8	Strike:	$5,885	Insert:	$6,165
line 9	Strike:	$5,985	Insert:	$6,270
line 10	Strike:	$6,096	Insert:	$6,387
line 11	Strike:	$6,246	Insert:	$6,544
line 12	Strike:	$6,471	Insert:	$6,779
line 13	Strike:	$6,695	Insert:	$7,014
line 14	Strike:	$6,945	Insert:	$7,275
line 15	Strike:	$7,094	Insert:	$7,432
line 16	Strike:	$7,319	Insert:	$7,667
line 17	Strike:	$7,543	Insert:	$7,902
line 18	Strike:	$7,768	Insert:	$8,138
line 19	Strike:	$7,992	Insert:	$8,372
line 20	Strike:	$8,216	Insert:	$8,607
line 21	Strike:	$8,441	Insert:	$8,843
line 22	Strike:	$8,666	Insert:	$9,078
line 23	Strike:	$8,889	Insert:	$9,313
line 24	Strike:	$9,114	Insert:	$9,548
line 25	Strike:	$9,339	Insert:	$9,783

7. Amend page 4, section 1.

line 1	Strike:	$9,563	Insert:	$10,019
line 2	Strike:	$9,756	Insert:	$10,195
line 3	Strike:	$9,951	Insert:	$10,398
line 4	Strike:	$10,149	Insert:	$10,606
line 5	Strike:	$10,352	Insert:	$10,817
line 6	Strike:	$10,560	Insert:	$11,035

8. Amend page 4, section 1, line 7.
Following: "The"
Strike: "total"
Insert: "minimum"

9. Amend page 4, section 1, line 16.
Following: line 15
Insert: "minimum"

10. Amend page 4, section 1, lines 18 and 19.
Following: "in addition to the"
Insert: "minimum"

11. Amend page 4, section 1, line 24.
Following: "~~($25,000)~~"
Strike: "$30,000"
Insert: "$27,500"

12. Amend page 4, section 2, line 25.
Following: "ONE-HALF OF"
Strike: "THE TOTAL"
Insert: "all"

HOUSE COMMITTEE ON LOCAL GOVERNMENT AMENDMENTS TO SENATE BILL 192

13. Amend page 5.
Following: line 3
Insert: "Section 3. Section 16-912, R.C.M. 1947, is amended to read as follows:

"16-912. Compensation of members of board. (1) Each member of the board of county commissioners in counties of the first, second, third, and fourth class, shall receive an annual salary to be established by resolution of the board of county commissioners in an amount not to exceed the annual salary established in the schedule in section 25-605, R.C.M. 1947, for the clerk and recorder.

In addition, each member of the board of county commissioners in counties of the first, second, third and fourth class shall receive a mileage allowance as provided in section 59-801 for the distance necessarily traveled in going to and returning from the county seat and his place of residence each day that such trip is actually made, and while engaged in the performance of his official duties.

(2) Each member of the board of county commissioners in all other counties is entitled to a salary to be established by the board of county commissioners by resolution in an amount not to exceed ~~thirty-five-dollars-($35)~~ $40 per day for each day's attendance on the sessions of the board and a mileage allowance as provided in section 59-801 for the distance necessarily traveled in going to and returning from the county seat and his place of residence each day that such trip is actually make, provided, however, that any county commissioner whose place of residence is fifty (50) miles or more from the county seat, as measured by the usual route of travel, may elect to receive mileage as provided in this section or, in lieu of mileage, a sum of ten dollars ($10) per day for each day's attendance on sessions of the board as expenses, while engaged in the performance of his official duties, and no other compensation must be allowed.""

CASE DIGEST

In Montana:

State v. Nelson and Nelson, 34 St. Rptr. 80 (Mont., 1977)

Evidence:
-Testimonial
-Reading into evidence, written reports prepared by one other than the witness.

In this case the sheriff read a report which was prepared by another and submitted to him as a matter of routine office procedure by one of his deputies. The court held that this was reversible error. The court stated that the contents of the report were hearsay (due to the fact that the statements were prepared by one other than the witness and that many of the statements were taken from yet another party. The court refused to allow the reports to be admitted as "official reports" under section 93-901-1, R.C.M. 1947.

State v. Lahr, 34 St. Rptr. 90 (Mont., 1977)

Arrest
-Warrantless
-Probable Cause

This case focused on section 95-608 (d), R.C.M. 1947, which states: "A peace officer may arrest a person when: (d) He believes on reasonable grounds that the person is committing an offense or that the person has committed an offense and the existing circumstances require his immediate arrest."

In this case a deputy observed what he believed to be an illegal transaction occur within his jurisdiction. After this transaction, the suspects left heading in the direction of an adjoining jurisdiction. He then radioed ahead and asked that the individuals be arrested upon their arrival.

The court stated that the determinitive test under section 95-608(d), R.C.M. 1947, was probable cause. The court felt that neither officer had probable cause. The arresting officer testified that he had stopped the suspects on a traffic violation yet no citation was issued, and the court, therefore, interpreted the arrest as being a "pretext arrest." The lower court conviction was therefore reversed.

State ex rel Brackman v. District Court, 34 St. Rptr. 95 (Mont., 1977)

Motions
-Leave to File Information Directly

Here the prosecution sought to file an information directly in the District Court. The high court stated that this was not a "critical stage" of the proceedings and the accused was, therefore, not entitled to assistance of counsel.

State ex rel Brackman v. District Court, Continued

The court felt that to allow assistance of counsel at this point would "...tend to discourage the practice of presenting witness testimony at such a proceeding, whereas the policy should be to encourage it." at 100.

In Other Jurisdictions:

Brewer v. Williams 20 CrL 3095 (1977)

Accused
-Rights
-To Counsel

The Sixth Amendment right to counsel, as set forth in Massiah v. United States 377 U.S. 201 (1964), was violated by an Iowa detective who despite an admonition by a murder defendant's lawyer not to question the defendant until he had consulted with his attorney in the town to which he was being transported, initiated a conversation with the defendant and eventually persuaded him, by playing on his religious feelings, to lead the police to the victim's body. The defendant's cooperation with the police did not satisfy the strict waiver standard that applies to the right to counsel.

People v. Milone, 356 N.E. 2d 1350 (Ill. App. 1976)

Evidence
-The Admissibility of Bite Mark Comparisons

An Illinois Appellate Court has upheld the admissibility of evidence of bite mark comparisons which were used by the prosecution to establish the defendant's guilt of the murder of a 14 year old girl then out wheeling on her bicycle. The victim had been found dead about 12 hours after she was last seen alive. She was then in an extreme state of rigor mortis.

At an autopsy, symmetrical lacerations were found on each eyelid, which had been carved there after death with a sharp instrument. A human bite mark was also detected on the inside of the victim's right thigh. A pathologist affirmed that the bite mark had been inflicted post-mortem. Silicone impressions of the bite mark were taken. Subsequently, molds were made of the defendant's teeth under the authority of a search warrant.

At the trial some 1300 pages of testimony were introduced on the reliability of bite mark comparisons in general and in this case. The prosecution utilized the services of three expert odontologists and the defendant sought to refute this testimony with four experts of his own.

The defendant argued that the test of general acceptance in the scientific community of Frye v. U.S. had not been satisfied. But the Appellate Court disagreed pointing out that lack of complete unanimity in the scientific community does not suffice to prove that the requirements of the Frye rule have not been fulfilled. The Court was particularly impressed by the distinction "between the

interpretation of mechancial measurements...from a polygraph" which make it very subject to fallibility and "testimony based upon direct observation of physical characteristics" as in the case of bite mark comparisons which tend to make its evaluation less subjective, more demonstrable and less subject to error.

The court placed considerable reliance on earlier Texas cases and the recent California Appellate Court opinion in People v. Marx, 126 CAl. Rptr. 305 (1975), from which the court quotes extensively and which is reported in 1 Scientific Sleuthing Newsletter p. 2 (No. 1, June 1976).

Comm. v. Landy, 362 A.2d 999. (Pa. Super. 1976)

Evidence
-Drugs
-Means of Identification

A police officer's testimony as to the results of a chemist's analysis of a substance seized from defendant is hearsay and improperly admitted by the trial court. Thus, where it was the only evidence that the object was a controlled substance, the accused's conviction was reversed.

People v. Biers, 353 N.E. 2d 389 (Ill. App. 1976)

Evidence
- Drugs
-Means of Identification

A marijuana defendant's conviction has been reversed by an Illinois Appellate Court because the trial court failed to properly instruct the jury that the prosecution's case must show that defendant possessed the statutorily proscribed marijuana. The state's expert had testified that the green plant material he had analyzed was cannabis. But he did not say whether he tested mature stalks, sterilized seeds or other statutorily exempt forms of cannabis.

People v. Kline, 354 N.E. 2d 46 (Ill. App. 1976).

Evidence
-Drugs
-Means of Identification

On a charge for possession of marijuana in excess of 500 grams with intent to deliver, a state chemist may testify as to his identification of the whole lot of 6443.33 grams as marijuana even though he only tested a random sample. His failure to test all of the substance seized merely goes to the weight of his testimony and not its admissibility.

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1. Fines, driver education
2. State hospital, voluntary commitment
3. State elected officials ... per diem
4. Vacations, public employees
5. Motor vehicles, transfer of plates
6. Public funds, banks & banking
7. Sheriffs expenses, board, etc.
8. Motor vehicles, dealer's plates
9. Cities & towns - fire depts.
10. State employees expenses
11. Fire dept., relief assn.
12. Marriage licenses & premarital test
13. Taxation - bowling alleys
14. Group insurance - county officers
15. Admin. bds. & comm. regulations
16. State board of health, fluoridation
17. Local boards of health, home nursing
18. County treasurers, term of office
19. Judges, elections - vacancy - primary
20. Elections-Jud. Cand.- withdrawal
21. School districts - trustees - meetings
22. Sheriffs - fees; subpoenas, mileage
23. Indians - sale of alcoholic bev.
24. Elections - Corr. prac. - Expend.
25. Nepotism - bd. of trustees - teachers
26. Elections - independent candidate
27. High School dist. - max. indebt.; tax
28. Military leave - temp. state empl.
29. Minors - empl. children - empl. of
30. Leases - coal - rents and royalties
31. Joint merit system - Supt. Publ. Inst.
32. Offices & officers - salary - co. off.
33. Exec. & Admin. - foreign corp.; trustees
34. County funds - city-county zoning.

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1. Univ. Syst.; empl. vacation leave
2. Univ. Syst.; dep. of funds; st. treas.
3. Nepotism - school boards
4. Const. Conv. - delegates
5. State exam. - pmts. by counties
6. Counties - water & sewer districts, taxes.
7. Banks & banking - crim. viol. rept. to A.G.
8. Real estate commission - lobbyist
9. Real estate commission - chairman
10. State library commission - librarian
11. Election - delegate expenditures
12. Public employees - sick leave
13. Elections - residence of minors
14. Sheriffs - Ins. exp. - private autos
15. Water Resources bd. - Director, salary of
16. Elections - elector qual., bond elections
17. Crimes & crim. proc. - fines, impr. of indigen
18. Sheriffs - mileage - exp.
19. Motor vehicles - reg. grace period
20. Holidays - gen. elec. - lig. store closing
21. Taxes - penalty & int., mtg. foreclosure SBA
22. Consumer Loans - cert. costs
23. Real estate - lic. of corp. as brokers
24. Prisoners - med. care; co. jails - prisoners
25. Offices & officers - st. rep. as legal counsel
26. Real estate - salesman lic. - 6 mo. waiting pe
27. Holidays - pub. empl.
28. Public employees - accumulation vac. leave
29. Public employees - severance pay
30. Prisoners - cost of board - co. jails-patrol
31. Schools - bd. of trustees pecuniary interest
32. P.E.R.S. - contr. withdrawal
33. Joint merit system - incl. in workmen's comp.
34. Con-Con - delegates holding public office
35. Offices & officers - qual. - age req.
36. Bd. of examiners - state contracts
37. Counties - empl. salaries
38. County treasurer - duties; disp. of penalties
39. Airports - operating revenues
40. Elections - qualif.,residence of electors
41. Counties - gen. fund, passport
42. Board of education - alcoholic bev. in dorms.
43. Hail insurance - levies not taxes
44. Univ. of Mont. - admission - res. pref.
45. Motor vehicles - title to; custodian of
46. Board of examiners - state contracts -
47. Elections - voters, taxpayer qual.

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48. Public welfare - approp., dependent children
49. Cities & towns - commission-manager govt.
50. Counties - budgets, public welfare, etc.
51. Admin. proc. - supt. of schools excl.
52. Schools - fees and charges
53. Building & loan assns. - mergers
54. Licenses - motor vehicles - fees
55. Building & loan assns. - type
56. Schools - attendance, pupil instr. days.
57. Schools - transportation
58. Barbers - sex of clientele
59. Motor vehicle - snowmobiles, etc.
60. Schools - finances, investment of funds
61. Const. Law - bicameral syst., bills

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1. Admin. proc. - board of highway appeals
2. Admin. - Admin. procedure act, application
3. Convicted felons - right to firearms
4. Game wardens' ret. syst. - contributions
5. Cities & towns - comm.-mgr. govt.
6. Constit. Law - special session
7. Constit. law - legis. - spec. session
8. Admin. proc. - dept. of health
9. Abortions - criminal abortion statutes
10. Const. law - redistricting & reapport.
11. Insurance - school districts
12. Const. law - reapportionment
13. Motor vehicles - junk vehicle fee
14. Fines - traffic regulation
15. Const. law - county attorneys' salaries
16. Counties - tax appeal board
17. University system - residency
18. Banks & banking - public funds, int.
19. Environment - impact stmts, confid.
20. Mines & mining - strip mining
21. Offices & officers - dep. sher. salaries
22. Sheriffs - deputies' salaries
23. Offices & officers - county treasurer
24. County attorneys - salary
25. County clerk & recorder - deeds & plats
26. Land classification - subdivision of
27. Nurses - board of, records are public
28. Justice court - legislature may increase
29. Taxation-agricultural board
30. Public Admin. - estates, fees allowable
31. Counties - consol. of offices
32. Courts - judges, comp. other than annual
33. Counties - salaries of co. officers
34. Const. Law - legis., residency qual.
35. Abstracts - Title abstractor, title of
36. Elections - general, federal elections incl.
37. Counties - funds, class. & appr. fund
38. Counties - county surveyor's salary
39. County commissioners - powers, subdiv, san r
40. County comm. - weed control districts
41. Const. law - debt, liability - disp. state l
42. Co. Supt. of schools - appeal before orig. p
43. Land Class. - subdiv. - def. of
44. Insurance, schools, prop. and liability ins.
45. Fire Marshal - Fire prevention rules
46. Juries - jurors, mileage of
47. Corporations - school board, inc. of
48. Cities & towns - jt. city-county health bd.
49. Agriculture - pesticides, financial resp.
50. Reapportionment, plan, how submitted to legs
51. Counties, contracts, union empl., health, pe
52. Const. Law - county indebtedness
53. Schools & sch. dist. - co. transp. comm.
54. Indians, reservations - strip mining of.
55. Land classification - subdiv., deeds, etc.
56. Elections - school district, elector resid.
57. Const. law - regular day's work
58. Executive reorg. act - effect on agencies
59. Assessments - banks and banking - exam.
60. Schools and school dist. - teachers, certif.
61. Ballots - required form, justice of the pea
62. County Commissioners - del. taxpayers
63. Constitutional Law - Residency, co. nursing
64. Constitutional law - snowmobile regis.
65. Contracts - subdivisions - deeds
66. Co. Commissioners - lease of fairgrounds
67. Cities and Towns - Depts. - fire, dis. fund
68. Attorney General - ops. - authority to issu
69. Schools and School Dists. - emp. sick leave
70. Counties - subdiv. - immediate family

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72. CITIES & TOWNS-Police depts., interlocal coop. agreements;
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74. FEES-Univ. system, mandatory student, expenditure of;
75. CO. CLERK & RECORDER-Elections, ballots, prep. of; rotation of names;
76. ELECTIONS-Legislators, elig. for state office, civil office;
77. TAXATION-Exemption from, nonprofit organ., vet's clubhouse;
78. COUNTIES-Tax appeal bd., travel and per diem;
79. COUNTY TREAS.-Personal prop. taxes, writ of execution;
80. CONSTITUTION-CONST. AMENDMENT-Inditiative, legis. dist., Petitions;
81. ELECTIONS-School trustee election, tie vote procedure, spe, elec.;
82. ELECTIONS-School trustees, sppt. const. invalidated; hi sch. dist.;
83. HIGHWAYS-Speed upon, regulation of, nighttime; resource conserv.;
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86. GAMBLING-Regulation of, games authorized, fees;
87. BALLOTS-Method of marking, write-in candidate, how voted for;
88. ELECTIONS-Public employees' participation, corrupt practices;
89. ADMINISTRATIVE LAW-Interpretation of rules; gen. sal. inc. for state employees.
90. COUNTY OFFICERS-Local govern. study comm., eligibility for;
91. ELECTIONS-School districts, elector 7 candidate qualifications;
92. COUNTY CORONERS-funeral directors & morticians, conflict of int.;
93. COUNTY COMMISSIONERS-Justices of peace, provide RCMs to;
94. COUNTY CLERKS OF COURT-filing fees, multiple parties;
95. ELECTIONS-Vacancies, how filled; Public Service Comm. Dists.;
96. COUNTIES-Subdivision, cert. of survey, filing of;
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98. ELECTIONS-Local gov't study commission, write-in votes; ELECTIONS-Voting, write-in votes; COUNTIES-Local gov't. study commission, elections;
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